

## Amendments to Rules Concerning the Underground Storage Tank Excess Liability Trust Fund

LSA Document #00-135

### Overview

The Indiana Department of Environmental Management (IDEM) has developed draft rule language for amendments to rules regarding the Underground Storage Tank Excess Liability Trust Fund (ELTF) in Title 328 and the payment of claims.

### Citations Affected

328 IAC 1 and 328 IAC 2

### Affected Persons

Underground storage tank owners and operators involved in the cleanup of petroleum spills, including those instances of indemnification of third parties.

### Reason(s) for the Rule

The rules that govern the administration of the Underground Storage Tank Excess Liability Trust Fund (ELTF) require amendments to reflect recent changes, including the expiration of the 1998 deadline for upgrade of underground petroleum storage tanks (USTs), updates of the cost schedule for reimbursement, and changes to statutory references.

### Economic Impact of the Rule

There is no significant economic impact (significantly increased costs or decreased costs) estimated for the regulated community regarding these rule changes.

### Benefits of the Rule

Rule updates and clarifications will allow UST owners and operators to better understand their eligibility for the funds and what costs these monies will cover.

### Description of the Rulemaking Project

The Excess Liability Trust Fund (ELTF) provides a mechanism for the reimbursement of monies spent by underground storage tank owners and operators on the cleanup of petroleum released

from USTs. It also is a means of financial assurance for owners and operators of USTs and a source of money for the indemnification of third parties. The amendments to this rule will update Title 328 to meet statutory changes as well as clarifying funding mechanisms and required expenditures.

### Scheduled Hearings

First Public Hearing: March 20, 2001, Indiana Government Center-South, Rooms 4 and 5.

Second Public Hearing: July 10, 2001, Indiana Government Center-South, Rooms 4 and 5.

### Consideration of Factors in IC 13-14-8-4

Indiana Code 13-14-8-4 requires that in adopting rules and establishing standards, the board shall take into account the following:

- 1) All existing physical conditions and the character of the area affected.
- 2) Past, present, and probable future uses of the area, including the character of the uses of surrounding areas.
- 3) Zoning classifications.
- 4) The nature of the existing air quality or existing water quality, as appropriate.
- 5) Technical feasibility, including the quality conditions that could be reasonably be achieved through coordinated control of all factors affecting the quality.
- 6) Economic reasonableness of measuring or reducing any particular type of pollution.
- 7) The right of all persons to an environment sufficiently uncontaminated as not to be injurious to:
  - (A) human, plant, animal, or aquatic life; or
  - (B) the reasonable enjoyment of life and property.

### Consistency with Federal Requirements

This rule is consistent with 40 CFR 280, the federal rule regarding technical standards and corrective action requirements for owners and operators of underground storage tanks.

## **Rulemaking Process**

The first step in the rulemaking process is a first notice published in the *Indiana Register*. This includes a discussion of issues and opens a first comment period. The second notice is then published which contains the comments and the department's responses from the first comment period, a notice of first meeting/hearing, and the draft rule. The Underground Storage Tank Financial Assurance Board holds the first meeting/hearing and public comments are heard. The proposed rule is published in the *Indiana Register* after preliminary adoption along with a notice of second meeting/hearing. If the proposed rule is substantively different from the draft rule, a third comment period is required. The second public meeting/hearing is held and public comments are heard. Once final adoption occurs, the rule becomes effective 30 days after filing with the Secretary of State.

## **IDEM Contact**

Additional information regarding this rulemaking action may be obtained from Pam Koons, Rules, Planning, and Outreach Section, Office of Land Quality, (317) 232-8899 or (800) 451-6027 (in Indiana).